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FAIR, ACCOUNTABLE, INDEPENDENT AND RESPONSIBLE (FAIR) JUDICIARY PROGRAM IN UKRAINE

**QUARTERLY PROGRESS REPORT
OCTOBER TO DECEMBER 2011**

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PROJECT BACKGROUND

Chemonics International signed the USAID Fair, Accountable, Independent and Responsible (FAIR) Judiciary Program in Ukraine contract on September 19, 2011. FAIR is designed to build on initiatives implemented by the USAID Combating Corruption and Strengthening Rule of Law in Ukraine (UROL) project from 2006-2011.

FAIR by the Numbers

- 10 legal institutions and associations supported
- 41 courts from all regions of Ukraine supported
- 108 justice sector personnel constructively engaged in long term strategic planning for judicial branch

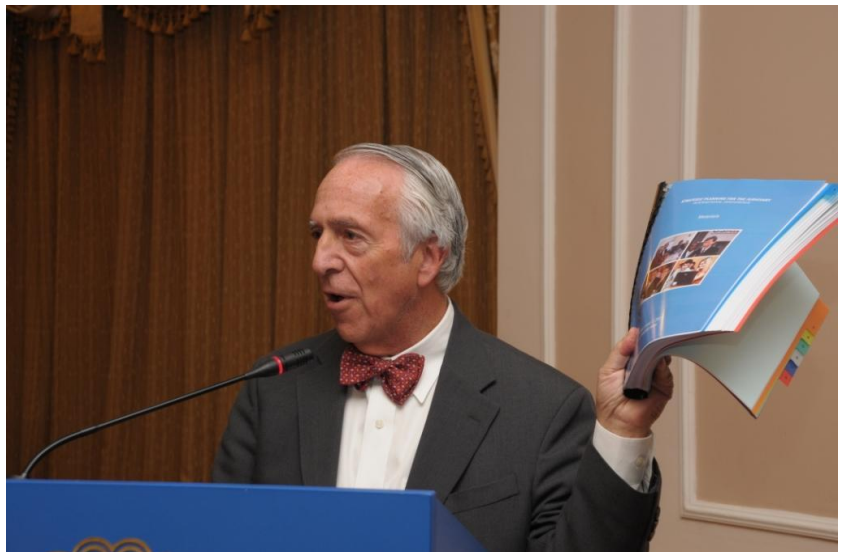
The major goal of the FAIR project is to support legislative, regulatory and institutional reform of judicial institutions in order to build a foundation for a more accountable and independent judiciary. The project focuses on four main objectives:

- Development of a legislative and regulatory framework for judicial reform that is compliant with European and international norms and supports judicial accountability and independence;
- Strengthening the accountability and transparency of key judicial institutions and operations;
- Strengthening the professionalism and effectiveness of the Ukrainian judiciary;
- Strengthening the role of civil society organizations as advocates for and monitors of judicial reform.

SUCCESS STORIES AND NOTABLE ACHIEVEMENTS

On December 6 and 7, 2011, the Council of Judges, State Judicial Administration (SJA) and FAIR conducted the first ever international conference on strategic planning for the judiciary. A strong, independent, and efficient judicial system is not possible without a coordinated and agreed upon strategy and detailed implementation plan that is supported by both judicial leadership and court administration personnel. The conference promoted the development of a strategic

plan that will include core values, principles, and areas of administration to be focused on during the next three years, as well as an action plan with necessary steps to achieve progress in identified areas. Conference speakers included Ukrainian and international experts on strategic planning for the judiciary, who engaged judges and court staff from throughout Ukraine and representatives of all three branches of government in a discussion on the importance of strategic planning for the judiciary. Keynote speaker U.S. Federal District Court Judge Charles Breyer (pictured above),



Chair of the Committee on Judiciary Planning of the U.S. Judicial Conference (2008-2010), kicked off the conference by stating that, “The judiciary plays a unique role in a democracy. Unlike the legislative and executive branches of government, the judiciary is not elected. Unlike the legislative branch, the judiciary does not have the power of the purse. Unlike the executive branch of government, the judiciary does not have the force to implement its decisions. The power of the judiciary rests solely upon the acceptance of its role by the citizens it serves. Therefore, without respect for its authority, it becomes powerless. The ability of the judiciary to fulfill its constitutional role depends on implementation of a strategic plan. The successful implementation of this plan is of crucial importance in developing respect for the judiciary.” At the end of the conference Supreme Court Justice Yaroslav Romaniuk, Chair of the Council of Judges (COJ), aptly stated, “We are not going to leave the conference empty headed. We will take some knowledge with us and avoid mistakes and learn from existing experience.” Justice Romaniuk went on to commit to the development of a strategic plan for the Ukrainian judiciary by ordering the SJA to draft a plan for the Council of Judges to adopt at its congress in December 2012. FAIR will continue to support the COJ and SJA in preparing a strategic plan. A draft version is expected to be completed by March 2012 for comment and review by the judiciary.

Also of note during this reporting period, on December 20 and 21, 2011, FAIR with the Commission on Strengthening Democracy and Rule of Law and the Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) conducted a Conference on Judicial Reform in Ukraine and International Standards for Judicial Independence. During the conference international and Ukrainian experts, judges of national and local courts, and policymakers discussed the OSCE Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia and the Council of Europe Venice Commission Joint Opinion on the Law on the Judiciary and Status of Judges, analyzed gaps and inconsistencies in the Ukrainian legislation in these areas, and developed recommendations for improving legislation related to the judiciary in compliance with international and European standards.

In addition, FAIR together with the USAID Legal Empowerment Project (LEP) and the USAID Building Ukrainian Independence and Lasting Democracy Project (BUILD), participated in the annual Ukrainian Law Week organized by the Ministry of Justice to coincide with International Human Rights Day on December 10, 2011. FAIR contributed 2,000 sets of public awareness materials and videos about the judiciary in Ukraine to be distributed to a large number of legal professionals as well as civil society representatives.

PROJECT ACTIVITIES

As outlined in the contract, the following section contains a discussion of accomplishments, milestone progress, indicator progress, and upcoming plans for each Expected Result from October 1 through December 31, 2011. Changes from the activity schedule compared to the work plan and problems requiring resolution or USAID intervention are discussed if they are applicable. Views expressed by project counterparts do not necessarily represent those shared by the FAIR team.

EXPECTED RESULT 1.1: UKRAINIAN JUDICIAL REFORM LEGISLATION RECEIVES FAVORABLE COMMENTS FROM THE VENICE COMMISSION AS MEETING INTERNATIONAL STANDARDS AND REFLECTS DOMESTIC AND INTERNATIONAL EXPERT INPUT

ACCOMPLISHMENTS: During this quarterly reporting period, the FAIR project team worked with a variety of partners on improving the legislative and regulatory framework for the judiciary. On December 20 and 21, 2011, FAIR supported the Commission for Strengthening Democracy and Rule of Law (Commission) to conduct a conference on judicial reform in Ukraine in cooperation

with OSCE/ODIHR as stated in the section above. The objective of the conference was to discuss the opinions of the Council of Europe Venice Commission regarding the Law on the Judiciary and the Status of Judges of July 2010, as well as the OSCE's Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia.

The conference brought together representatives of the Verkhovna Rada (Parliament), Supreme Court, Council of Judges, and National School of Judges as well as chief judges and judges of the appellate courts from all regions of Ukraine and civil society advocates. Judicial experts from Ireland, Estonia, France, Russia and Germany contributed to the discussion. Participants analyzed gaps in Ukrainian legislation related to the judiciary and developed recommendations for improving the legal framework with an emphasis on judicial selection and training, independence in adjudication and quality/coherence of judgments, judicial self-governance bodies, and accountability of judges and their independence in adjudication. The last session of the conference was dedicated to next steps in judicial reform, including Constitutional reform. The results of the conference were presented at the Plenary Meeting of the Commission for Strengthening Democracy and Rule of Law on December 22, 2011.

Milestone Progress ER 1.1

- Amendments to the Law on the Judiciary and Status of Judges, which were drafted by a Commission for Strengthening Democracy and Rule of Law working group according to Venice Commission recommendations, were approved on December 22, 2011. The draft amendments are expected to be submitted to the President's office in mid-January 2012.
- Public discussion on pending judicial reform legislation held (December 20 and 21, 2011, Conference on Judicial Reform in Ukraine and International Standards for Judicial Independence).



“Building a strong judiciary that enjoys the trust of society and is immune to undue influence and interference from political institutions or politicians is directly linked to ensuring the independence and public accountability of judges.”

Member of Parliament (MP)
Serhiy Holovaty (right), Chair of the Commission for Strengthening Democracy and Rule of Law

Also at the Plenary Meeting, the Commission reviewed a draft amended Law on the Judiciary and Status of Judges that was amended by a Commission working group in accordance with the Venice Commission recommendations. The members of the Commission approved the draft that is expected to be submitted to the office of the President of Ukraine for consideration in mid-January 2012.

During this quarterly reporting period, the FAIR project team also contributed to bar and legal education reform by conducting initial assessments on each of these topics with American expert Mary Noel Pepys in October 2011. The respective reports identified the challenges and opportunities related to future work on issues related to bar and legal education reform.

Specifically related to the bar, the FAIR team also reviewed a number of existing draft laws on the bar previously and currently under consideration by the Verkhovna Rada and Venice Commission recommendations on bar reform. The review showed that bar reform initiatives in Ukraine are not quite in line with international standards. The draft Law on Bar, developed by the Commission for

Strengthening Democracy and Rule of Law, was sent to the Venice Commission and received rather favorable comments, though it was mentioned that the draft law has several shortcomings that should be addressed. The Commission for Strengthening Democracy and Rule of Law plans to amend the draft law according to the Venice Commission opinion and will submit it to the President of Ukraine in mid-January 2012. As presented below, FAIR will also co-organize a public discussion with ABA/ROLI on amending the draft law with input from a broad array of stakeholders.

In addition, on November 29, 2011, FAIR Chief of Party (COP) David Vaughn, Deputy COP Nataliya Petrova and Program Coordinator Olga Nikolaeva met with the President of the Ukrainian Bar Association (UBA) Valentyn Zagariya and UBA Executive Director Oleksandra Egert. During the meeting, the FAIR team and UBA representatives discussed possible areas of cooperation. Participants of the meeting agreed that FAIR and the UBA will co-organize several public events to discuss bar reform to assemble the opinions of the professional community and promote the recommendations expressed in the Venice Commission opinion. Mr. Zagariya also was interested in cooperation in the area of judicial reform.

With respect to legal education, the FAIR team participated in a series of meetings of the working groups formed after the conference, “The Role of Legal Education in Society Governed by the Rule of Law: Challenge for Ukraine,” organized by the OSCE in cooperation with law faculties of the National University “Kyiv Mohyla Academy” and the Lviv National University (Lviv, October 20 to 23, 2011). The members of the working groups are representatives of law faculties from all over Ukraine. These meetings were dedicated to the development of the modern model curriculum on theory of law, administrative law and administrative procedure (court trial), and criminal law and procedure. One of the meetings was dedicated to the organization of legal education. FAIR is working to engage foreign and Ukrainian experts to guide the Working Group on Legal Education Reform to draft a concept paper identifying the scope of needed legislative changes.

In addition, the FAIR project team participated in the All-Ukrainian Roundtable, “Legal Clinics in Ukraine: Current State of Affairs and Perspectives for Further Development,” organized in Odesa by the National University “Odesa Law Academy” on October 28, 2011. Participants, experts and presenters discussed whether law school legal clinics can and should provide free legal aid as outlined under the Law on Free Legal Aid. The law is currently silent on issues related to law school legal clinics, which is a form of student training in law practice. Professors at the Odesa Law Academy legal clinic initiated an amendment to the law that would add legal clinics to legal services providers in order to receive state support for their activity.

On October 20 and 21, 2011, the FAIR project team participated in a regional seminar on “Legal Civil Aid in South-Eastern Europe” organized by the French Embassy in Ukraine. This seminar included a discussion of the different systems of legal aid in South-East Europe, while focusing on issues related to assuring continuity of legal services provided to citizens, especially at the pre-trial stage and during judicial processes. Participants included representatives from Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Moldavia, Romania, and Serbia.

On November 22, 2011, the FAIR leadership met with representatives of the Ministry of Justice’s Center for Legal Reform and Law Drafting, namely, Andriy Vyshnevskiy, Director, and Taras Vaveliuk, Acting Chief of Section. The Center for Legal Reform and Law Drafting is in charge of implementing the Law on Free Legal Aid and soon will be transformed into the National Center for Legal Aid. The FAIR team and Center for Legal Reform and Law Drafting agreed to cooperate closely in the area of free legal aid. The cooperation will include, but not be limited to assistance in developing secondary legislation, and developing amendments to the Law on Free Legal Aid. This will all be closely coordinated with the USAID Legal Empowerment Project.

At the request of the Ministry of Justice, FAIR COP David Vaughn gave a presentation on project efforts to improve court services, including access to legal and judicial information and court user surveys, at a roundtable on the Law on Free Legal Aid hosted by the MOJ on December 9, 2011 (http://www.minjust.gov.ua/photoalbum/photoalbum_492). This event was part of Law Week in Ukraine, which is discussed in greater detail under Expected Result 4.2 below.

Finally, on November 3 and 4, 2011, FAIR co-organized with the International Renaissance Foundation (IRF) a conference on “Freedom of Assembly: European Standards for Ukraine.” The conference focused on a discussion of the draft Law on Freedom of Peaceful Assembly, developed by the Commission for Strengthening Democracy and Rule of Law, in light of Venice Commission recommendations on the subject. During the second day of the conference, FAIR DCOP Nataliya Petrova moderated a session on “Freedom of Assembly: Court Practices in Ukraine.” During this session, the issue of judicial practice was broadly discussed. DCOP Petrova highlighted the fact that judicial practice in Ukraine is solely grounded on the current national legislation with no reference to the case law of the European Court of Human Rights. As discussed, judges feel vulnerable if they act outside of the Ukrainian legal framework. The conference resulted in a decision to amend the draft Law on Freedom of Peaceful Assembly according to Venice Commission recommendations. The participants of the conference also highlighted an urgent need to encourage review and passage of the draft law by the Verkhovna Rada. On the above mentioned plenary meeting of the Commission for Strengthening Democracy and Rule of Law, the Commission decided to submit the draft law on Freedom of Peaceful Assembly to the President for consideration in mid-January 2012.

As it is clear that sustainable judicial reform is not possible without further amendments to the Law on the Judiciary and Status of Judges and Constitution (see below), it is also readily apparent that judicial reform is not possible without bar and legal education reform as well. The FAIR team is undertaking an approach to harmonize all these related issues to strengthen the legal framework related to the judiciary.

Performance Indicators ER 1.1

To achieve the Expected Result 1.1, FAIR support to the development of draft amendments to the Law on the Judiciary and the Status of Judges led to addressing at least 80% of Venice Commission recommendations. However, actual adoption of the draft amendments depends on the political will of legislators which is outside of FAIR's control. There are no changes in status of FAIR indicators “Number of laws, regulations and procedures designed to enhance judicial independence supported with USG assistance”, “Number of revised provisions enacted that reflect Venice Commission recommendations” and “Percentage of Venice Commission recommendations adopted” and achieving targets on these indicators in the future depends of legislators. FAIR will promote the adoption of draft amendments through its cooperation with the National Commission for Strengthening Democracy and Rule of Law, Verkhovna Rada and President Administration.

SCHEDULE CHANGES: The regional discussions on the draft amendments to the Law on the Judiciary and Status of Judges, planned for the next quarter, will be postponed. The discussions at the December 2011 Conference on Judicial Reform in Ukraine showed that there is no need for regional events at this time. Some participants, including a number of judges requested the copy of the draft law to review. FAIR will focus on the work with the Presidential Administration and Holovaty Commission to facilitate consensus building on a consolidated draft law for submission to the Parliament. Planned discussions will be conducted after any progress will be made in this area.

PROBLEMS: Regarding delays in improving the Law on the Judiciary and Status of Judges, it should be noted that on the one hand, there is no political will to “let judges go,” in other words guarantee real judicial independence, which is the main point of concern for Ukrainian society and both Ukrainian and International experts. On other hand, the judiciary itself lacks strong leadership in fostering and promoting independence among judges.

In addition, there are concerns regarding the bar reform due to a lack of the unity among the main stakeholders. FAIR in cooperation with ABA/ROLI, IRF will work to build the consensus among them. Activities in the area of the Legal education reform face the necessity to identify the key players to deal with the issue in order to own the results.

PLANS: During the next quarter, FAIR will focus this task activity on building consensus among partners to bring the Law on the Judiciary and Status of Judges of July 2010 in line with Venice Commission recommendations, advocating for passing amendments through inclusive interactions among international experts, civil society and key policy makers, and support for the inclusive development of additional key reforms in the rule of law sector. FAIR will conduct discussions with key stakeholders on critical issues related to the Law on the Judiciary and Status of Judges and the Law on the High Council of Justice. FAIR will also conduct public a discussion on amending the draft Law on the Bar with ABA/ROLI in February 2012 focusing on Venice Commission recommendations and ABA/ROLI's recently completed assessment of the draft law. In cooperation with the OSCE, FAIR will support a meeting of the working group on reforming legal education with the participation of Arthur Hauptman, an American expert in administration and finance in legal education. FAIR will also work with the Ministry of Justice, the USAID Legal Empowerment Project, bar associations, and other civil society members like the Legal Aid Foundation of Ukraine and the International Renaissance Foundation, on the development of secondary legislation to implement the Law on Free Legal Aid.

EXPECTED RESULT 1.2: CONSTITUTIONAL REFORM RELATED TO THE JUDICIARY IS PURSUED IN AN INCLUSIVE MANNER

ACCOMPLISHMENTS: Activities under this task focus on cooperation with the first President of Ukraine (1991-1994) Leonid Kravchuk and his efforts in promoting constitutional reform. The FAIR team provided former President Kravchuk's office with recommendations on improving the Constitution of Ukraine related to the judiciary for further consideration, especially when the expected Constitutional Assembly will be in place.

Milestone Progress ER 1.2

- Council of Europe expert Lorena Bachmaier recruited to analyze draft concept paper on constitutional reform. Her work is scheduled to begin in January 2012.

On November 2, 2011, President Kravchuk visited the FAIR office to learn more about the project and discuss future cooperation with the Scientific Expert Group on Constitutional Assembly Preparation. He shared with the FAIR team draft papers on the operations of the Scientific Expert Group and Concept Paper on the formation of the Constitutional Assembly. FAIR provided comments on these draft regulations to President Kravchuk's office to be considered by the Expert Group. The Expert Group approved these draft documents, which were submitted to the Presidential Administration for consideration to start the process of forming the Constitutional Assembly, which is expected in January and February 2012.

A number of provisions in the Constitution limit improvements in the Law on the Judiciary and Status of Judges and must be amended to promote sustainable judicial reform. Recommendations to improve the Constitution in line with international and European standards, such as those developed under UROL need to be advanced with leading policymakers. The formation of the Constitutional Assembly would be a first step in pursuing constitutional reform. FAIR will continue to support this process.



President Leonid Kravchuk (in the center), during his visit to the FAIR office on November 2, 2011.

PROBLEMS: Formation of the Constitutional Assembly is in process, but no exact dates of the start of its operation are known. FAIR will coordinate its activities according to how the situation develops.

PLANS: During the next quarter, FAIR will focus on continuing cooperation with the Expert Group to identify their needs to move forward on the development of constitutional amendments. When the Constitutional Assembly is in place, FAIR will provide expert support for drafting amendments to the Constitution of 1996. This also will include, but not be limited to organizing public events to discuss the draft Concept Paper on Constitutional Reform, reviewing the draft Concept Paper on Constitutional Reform and supporting through the grants fund an information campaign about Constitutional Assembly activity.

Performance Indicators ER 1.2

We do not report changes on Expected Result 1.2 indicators this quarter. In accordance with the FAIR Performance Measurement and Evaluation Plan (PMEP) the following indicators will measure progress under this ER: "Number of project-supported communication products issued by civil society organizations", "Number of working sessions on Constitutional reform between lawmakers and civil society organizations" and "Number of civil society organizations who have experience in constitutional reform participating in public events on the Constitution." We expect that measurable outcomes under this Expected Result will take place in April to September 2012 contributing to change in indicator data.

EXPECTED RESULT 2.1: UKRAINIAN JUDGES ARE APPOINTED ON OBJECTIVE, KNOWLEDGE- AND PERFORMANCE-BASED CRITERIA

ACCOMPLISHMENTS: On October 6, 2011, FAIR COP David Vaughn and Legal and Judicial Selection Specialist Miroslava Vorontsova conducted a meeting with Justice Ihor Samsin, Chair of the High Qualifications Commission of Judges (HQC) and key HQC staff. During the meeting, FAIR and the HQC agreed to focus on:

- Analyzing results of the judicial selection process conducted under new rules stipulated by

Milestone Progress ER 2.1

- One working meeting with HQC held.
- HQC started forming a working group to improve selection procedures for the first appointment of judges.
- Dutch expert Steven Bakker recruited to complete gap analyses on regulations and the quality of questions in the May 2011 initial, anonymous test for judicial candidates.

the Law on the Judiciary and Status of Judges, in particular, an analysis of the initial anonymous test (May 2011) and qualifications exam (June 2011);

- Analyzing of the statistical data from the first judicial application process (March 2011); and
- Requesting recommendations from the High Council of Justice (HCJ) to eliminate problematic issues that occurred during the new judicial selection process to improve practices and procedures in the future.

Based on the results of this meeting, the FAIR team drafted and submitted a scope of work for short-term testing expert Steven Bakker, who will analyze regulations regarding the initial anonymous test. He will also review and analyze the quality of the test items. The results of the expertise will be presented to the HQC, HCJ and other Ukrainian counterparts during a judicial selection seminar in February 2012.

Additionally, FAIR signed a contract with short-term expert Leonid Sereda, who will analyze statistical data from the first judicial vacancy application process to identify age, sex, education, employment history, etc. of judicial candidates who applied for judgeships. This information will be used to help inform judicial competencies and special training curricula development. Also, in cooperation with the HQC, Mr. Sereda will conduct an analysis of the administration of the first anonymous test and develop recommendations to improve procedures. The expert will present his findings at the February 2012 judicial selection seminar.

“Overall the first judicial selection process under new legislative rules was organized very well. Of course there were mistakes. Yet that was the first time such a judicial selection system was implemented. Thus it was impossible to avoid some mistakes.”

Judge Volodymyr Kolesnychenko, Chair of the High Council of Justice



HCJ Chair Volodymyr Kolesnychenko(left) with FAIR DCOP Nataliya Petrova

On October 20 and 21, 2011, Ms. Vorontsova attended the first international conference, “High Qualifications Commission of Judges of Ukraine: Current Experience and Future Challenges,” that was held by the HQC and supported by the Joint Program between the European Commission and the Council of Europe “Transparency and Efficiency of the Judicial System of Ukraine.” Ms. Vorontsova took active participation in the conference session on judicial selection and shared FAIR project experience and recommendations with participants. The conference resulted in a number of key recommendations to improve judicial selection including:

- Clarifying what information the HQC has a right to request from judicial candidates during background checks;
- Improving the methodology for evaluating case studies as part of the qualifications exam;
- Developing and approving a list of judicial competencies; and
- Introducing an internship in courts for judicial candidates as a part of their special training.

In addition, the HCJ created a working group to study problems and gaps in the new judicial selection process. The working group includes three members of the HCJ, namely, Judge Oleksandr Udovychenko of the High Economic Court, HCJ Deputy Chair Lidia Izovitova and Volodymyr Shapoval, acting Chair of the Central Election Commission. The working group presented the results of its analysis, which were approved by HCJ decision 595/0/15-11 (See <http://www.vru.gov.ua/index.php?u,acti,a13092011>).

Performance Indicators ER 2.1

We do not report changes to Expected Result 2.1 indicators this quarter. In accordance with FAIR Performance Measurement and Evaluation Plan (PMEP) the following indicators will measure progress under this ER: "Number of merit-based criteria or procedures for justice sector personnel selection adopted with USG assistance", "Number of procedures within the judicial appointment process improved with project support" and "Number of judicial test developers trained with project support." The accomplishments mentioned here contribute to future indicator targets. We expect that measurable outcomes under this Expected Result will take place in April to September 2012 contributing to change in these indicators data.

On November 30, 2011, Ms. Vorontsova conducted a meeting with Deputy Chief of the HQC Secretariat Nani Otroda and her deputy Liudmyla Maystrenko to discuss the need to improve the regulations related to judicial selection and draft a list of judicial competencies. As a result of the meeting, the HQC agreed to create a working group to improve selection procedures for the first appointment of judges that will include representatives of the HQC, HCJ, Presidential Administration, Ministry of Justice, Parliamentary Justice Committee, State Judicial Administration, FAIR and testing experts.

PROBLEMS: Among other things, it is critically important to improve the process for conducting background check for judicial candidates. Currently, a background check is conducted only once in the beginning of judicial selection process. Yet experts recommend having a second background check during the competition for a vacant position. FAIR will continue to cooperate with Ukrainian policymakers in order to introduce appropriate changes to the Law on the Judiciary and Status of Judges.

PLANS: During the next quarter, FAIR will focus on supporting the HQC in improving judicial selection process through:

- Establishing and supporting a HQC working group on first appointment that will improve regulations related to the judicial candidates selection process (January 2012);
- Conducting, in cooperation with the HQC, up to three working group on first appointment meetings (January to February 2012); and
- Conducting in cooperation with the HQC a Judicial Selection Seminar (February 2012).

EXPECTED RESULT 2.2: UKRAINIAN JUDGES ARE DISCIPLINED IN TRANSPARENT PROCESSES

ACCOMPLISHMENTS: During this reporting period, FAIR continued to support the HQC in developing clear judicial discipline procedures. Judicial Accountability Coordinator Ashot Agaian attended the HQC conference reported on under Expected Result 2.1. Representatives of the judiciary, the National School of Judges, and Council of

Milestone Progress ER 2.2

- Current practice within the judicial discipline process documented.
- Amendments to the Draft Regulation on the Judicial Discipline Inspector Service presented for HQC consideration.

Europe experts participated in the conference. Mr. Agaian participated in the working session on disciplinary liability of judges. This session resulted in the following recommendations:

- Bring the provisions of the Law on the Judiciary and Status of Judges concerning disciplinary sanctions in line with the Law on the High Council of Justice;
- Review procedures for appealing HQC disciplinary decisions;
- Develop qualifications for disciplinary inspectors; and
- Define whether the withdrawal of a complaint can be grounds for closing disciplinary procedures against a judge.

Also during this reporting period, the FAIR team conducted four working meetings with HQC representatives regarding judicial discipline issues. On November 17, 2011, the FAIR team met with HQC representatives to discuss issues related to the Regulation on the Service of Disciplinary Inspectors, the Job Description for Disciplinary Inspectors, as well as other documents related to the administration, investigation and adjudication of complaints of judicial misconduct. This meeting resulted in HQC adoption of a Regulation on Service of Disciplinary Inspectors. However, the Regulation does not comport with the international standards relating the disciplinary inspectors' appointment, so the HQC shall amend the abovementioned Regulation based on the FAIR short-term experts recommendations presented for HQC consideration.

On November 30, 2011, FAIR short-term Judicial Discipline Specialist Curtis DeClue discussed with HQC representatives business processes related to handling complaints of judicial misconduct. On December 2, 2011, Mr. DeClue met with the HQC staff to develop a complaint flow-chart, which will help to uncover inconsistencies and problem areas within the first stages of the disciplinary process. The discussion demonstrated that the complaint intake and registration stage is relatively clear and transparent, while verification and investigation procedures are still in need of improvement because the Law on the Judiciary and Status of Judges contains only general provisions on investigations, while investigation with no other documents regulate these procedures.

Following these discussions, the HQC with FAIR support conducted a seminar on "Practical Aspects of Disciplinary Liability of a Judge" on December 9 and 10, 2011. Members and staff of the HQC, representatives of the HCJ, High Administrative Court, Supreme Court, and FAIR experts Curtis DeClue and José Cardoso, Judicial Discipline Specialist from Portugal, attended the seminar and FAIR international expert Victoria Henley, Director-Chief Counsel, California Commission on Judicial Performance, participated in the conference via Skype. Participants discussed the regulatory documents of the HQC that govern the disciplinary process and ways to introduce modern information technologies and standardization to improve the effectiveness of the process. Mr. DeClue and Mr. Cardoso shared international experience in organizing administrative and adjudicative procedures for disciplining judges. They also provided recommendations to improve disciplinary procedures in line with international and European best practices.

“About 60 % of HQC staff deal with judicial discipline. That is why improving judicial discipline procedures from receiving complaints until reaching a decision in a disciplinary case is extremely important for the HQC. We appreciate very much the USAID FAIR Justice Project assistance in this area.” Justice Ihor Samsin, Chair, High Qualifications Commission of Judges of Ukraine



The seminar resulted in a number of recommendations including:

- Improving procedures for dismissing complaints that state no reasonable grounds for judicial discipline (as approximately 80% of complaints state no grounds for judicial discipline);
- Adopting regulations governing every stage of the judicial discipline process;
- Developing manuals for every stage of the judicial discipline process;
- Conducting trainings for new disciplinary inspectors;
- Developing clear standards of judicial discipline case evidences evaluation; and
- Developing more strict requirements for recruiting judicial inspectors.

Following the seminar, Mr. DeClue conducted a training program for disciplinary inspectors and HQC staff on international standards and best practices in managing the judicial discipline process. During the training, Mr. DeClue introduced participants to basic principles of judicial misconduct investigation with a particular emphasis on managing judicial discipline complaints. After the training, Mr. DeClue and Mr. Agaian had a discussion with disciplinary inspectors. This discussion resulted in a better understanding of the issues the disciplinary inspectors face, including the fact that current Ukrainian legislation does not govern much of the situations that they consider. That is why disciplinary inspectors welcomed the suggestion by FAIR to consolidate current judicial discipline policies and procedures in the form of a manual. At the same time the HQC supports focusing on improving the legal and regulatory framework related to judicial discipline based on international and European standards.

The Service of Disciplinary Inspectors is a structural unit of the HQC Secretariat, and disciplinary inspectors are assigned to HQC members. The HQC receives complaints, investigates complaints and adjudicates complaints of judicial misconduct. This is not in line with international and European standards, where investigation and adjudication must be separated and performed by different bodies. According to OSCE/ODIHR standards and in particular, the Kyiv Recommendations, to prevent allegations of conflict of interest and guarantee a fair discipline procedure, Judicial Councils shall not be competent both to a) receive complaints and conduct disciplinary investigations and at the same time b) hear a case and make a decision on disciplinary

measures. Therefore, to provide fair, independent and transparent discipline procedures the Service of Disciplinary Inspectors must be an independent body. However, such changes will require amendments to the Law on the Judiciary and Status of Judges, which FAIR will support before key policymakers.

Following the seminar, Mr. DeClue conducted a training program for disciplinary inspectors and the HQC staff on international standards and best practices in managing the judicial discipline process. During the training, Mr. DeClue introduced participants to basic principles of judicial misconduct investigation setting forth international documents and best practices of managing judicial discipline complaints. After the training, Mr. DeClue and Mr. Agaian had a discussion with disciplinary inspectors. This discussion resulted in a better understanding of the issues the disciplinary inspectors face, including the fact that current Ukrainian legislation does not govern much of the situations that they consider. That is why disciplinary inspectors welcomed the suggestion by FAIR to consolidate current judicial discipline policies and procedures in the form of a manual. While at the same time focus on improving the legal and regulatory framework related to judicial discipline based on international and European standards.

PLANS: During the next quarterly reporting period, FAIR plans the following activities in order to achieve the Expected Result 2.2:

- In cooperation with the HQC establish a working group to develop a set of detailed regulations related to judicial disciplinary procedures from filing complaints to adjudication and support the working group's activities (January to March 2012);
- Recruit a Ukrainian expert to evaluate documentation on inspectors' qualifications, roles and responsibilities and make recommendations for standardizing expectations and scopes of work across the Service of Disciplinary Inspectors (January to February 2012); and
- Provide the HQC with technical assistance to improve the existing web site's capacity to meet legislative requirements for posting disciplinary decisions (February to March 2012).

Performance Indicators ER 2.2

FAIR made important measurable progress during this quarter on its effort to achieve the Expected Result 2.2. The status of indicator "Percent of judicial discipline decisions posted on HQC website" which measures this Expected Result increased to 73% from baseline 47%. This quarter data represents the ratio of 116 decisions posted on HQC website against 159 made during 2011. The data on other indicators under this Expected Result including "Number of criteria, standards and regulations adopted to govern judicial misconduct investigation," "Percent of judicial misconduct complaints submitted to the HQC using standardized form," "Number of government institutions placing judicial misconduct complaint form on their website," and "Number of judicial disciplinary inspectors trained with project support" remains the same as the baseline. We expect that measurable outcomes under this Expected Result will take place in April to September 2012 contributing to change in these indicators data.

EXPECTED RESULT 2.3: THE REGULATORY AND INSTITUTIONAL FRAMEWORK FOR JUDICIAL ACCOUNTABILITY AND INTEGRITY IS STRENGTHENED

ACCOMPLISHMENTS: During the reporting period, the FAIR team supported meetings of the Expert Group on Reviewing and Amending the Code of Judicial Ethics established by the Council of Judges. FAIR supported an Expert Group meeting on November 18, 2011, at which the participants discussed the previous recommendations developed by UROL short-term expert Marilyn Holmes to incorporate them into the Code of Judicial Ethics. Also, the Expert Group considered two drafts of the Code, one of which was developed by FAIR on the basis of Ms. Holmes' recommendations,

Milestone Progress ER 2.3

- COJ Expert Group on Reviewing and Amending the Code of Judicial Ethics agrees that a new Code must be based on the United Nations Bangalore Principles of Judicial Conduct.

and agreed upon the structure for a new Code. The Expert Group decided that the new Code must be based on the U.N. Bangalore Principles of Judicial Conduct.

Another Expert Group meeting was conducted on December 22, 2011, where participants discussed a new combined draft Code of Judicial Ethics and identified provisions that need to be improved. Expert Group coordinator Judge Tetiana Kozyr of the High Commercial Court and member of the COJ agreed to report to the body on progress made in drafting a new code, which includes preparation of a complete new draft code for review by international experts in January 2012.

PROBLEMS: According to the Law on the Judiciary and Status of Judges, either systematic or a gross one-time violation of rules of judicial ethics may be grounds for disciplinary action against a judge. At the same time, the law does not define what “systematic” or “gross one-time” violations means. The absence of clear definitions may lead to unpredictable consequences, for instance, manipulating judges through interpreting the terms in different ways. FAIR recommends that commentary to the Code of Judicial Ethics be developed to address this issue, while also promoting amendments to the Law on the Judiciary and Status of Judges.

SCHEDULE CHANGES: Work under this expected result has been slightly delayed due to personnel changes between the proposal and start-up phases. FAIR has now recruited Mr. Oleksiy Gotsul, formerly of the joint European Commission/COE Transparency and Efficiency of the Judicial System of Ukraine project, to serve in the position. The work to recruit two experts to review the latest draft Code of Judicial Ethics will now begin in January 2012 as opposed to November 2011. The project expects that reviews will be completed in February 2012 and that stakeholder events to discuss the draft Code will take place in March 2012 as planned.

PLANS: During the next quarterly reporting period, to support activities of the Expert Group FAIR will:

- Recruit two experts, including a Council of Europe expert to review draft amendments proposed by the expert group, and recommend changes as necessary to comport with European standards or best international practice (January to February 2012);
- Incorporate expert recommendations into the draft Code of Judicial Ethics to be submitted for COJ consideration, and support the expert group to garner COJ support for further discussion of the draft amendments within the judiciary. (February 2012);
- Incorporate relevant recommendations from Ukrainian judges, and submit revised amendments to the COJ for final approval. (March 2012); and
- With the COJ co-sponsorship, conduct three stakeholder events to discuss the content of proposed amendments to the Code of Judicial Ethics (March 2012).

EXPECTED RESULT 3.1: THE SKILLS AND COMPETENCIES OF UKRAINIAN JUDGES ARE BOLSTERED THROUGH MODERN, DEMAND-DRIVEN INITIAL AND ONGOING JUDICIAL TRAINING PROGRAMS

ACCOMPLISHMENTS: During the reporting period, the FAIR team had several meetings and discussions with the leadership of the National School of Judges (NSJ) regarding further cooperation to support the NSJ in

Performance Indicators ER 2.3

We do not report changes on Expected Result 2.3 indicators this quarter. We measure progress under this Expected Result using the following indicators: “Number of judicial self-governance mechanisms revised with project support” and “Number of judges providing feedback to revisions of judicial self-governance mechanisms”. We expect that measurable outcomes under the Expected Result 2.3 will take place in April-September 2012

Milestone Progress ER 3.1

- Two experts, one French and one from the United States, identified to assess institutional and training needs at the NSJ.

building its sustainability and capacity to provide judicial candidates and current judges with modern, comprehensive and highly effective initial and ongoing training programs. On November 14, 2011, FAIR DCOP Nataliya Petrova and FAIR Legal and Training Specialist Yuliya Golovanova had a meeting with Nataliya Shuklina, Vice-rector on Science and Research of the NSJ, and Tetyana Pustovoitova, Head of the International Relations Department of the NSJ. Following this meeting, FAIR agreed to:

- Assist the NSJ in developing a “Concept of Work” for the NSJ;
- Assist in the development of a unified program for initial training of judicial candidates;
- Conduct an assessment of institutional and training needs of the NSJ;
- Organize a roundtable on the role and importance of the NSJ in the judicial system of Ukraine; and
- Publish handbooks for judges and teaching guides for judge-trainers.

FAIR and the NSJ also agreed to begin with an assessment of institutional and training needs of the NSJ. Aided by COP David Vaughn’s participation in the 5th International Organization for Judicial Training (IOJT) Conference in Bordeaux, France in November 2011, in December 2011, FAIR identified international experts to conduct this needs assessment. These are U.S. judicial education expert Mary Fran Edwards, formerly of the National Judicial College, and Daniel Chasles, Secretary General of the National School of Magistrates

(ENM) in France. USAID has approved Ms. Edwards and Mr. Chasles candidacy is still pending. At the IOJT Conference, COP Vaughn also identified experts to support work on developing judicial competencies under Expected Result 2.1 above, including Emmanuelle Spiteri-Doffe, Director of Recruitment and Validation of Competencies at the ENM. Further, COP Vaughn collected resource materials on ethics, opinion writing and court administration and management that will be used to support judicial training programs in Ukraine.

Performance Indicators ER 3.1

We measure progress under Expected Result 3.1 using the following indicators: “Number of judges and judicial personnel trained with USG assistance”, “Number of new legal courses or curricula developed with USG assistance”, “Number of TOT trainers created” and “Number of judges trained with USG assistance”. We expect that measurable outcomes under this Expected Result will happen in April-September 2012 contributing to change in

SCHEDULE CHANGES: Due to request of the leadership of the NSJ to postpone the meetings with the team of invited assessment experts and necessity to select and get approval for an assessment expert from Europe FAIR rescheduled assessment of institutional and training needs of the NSJ for the first part of February 2012.

PROBLEMS: During the long period of cooperation with the Academy of Judges, and now the National School of Judges, the FAIR team concluded that before providing any assistance or support to the NSJ in building its institutional capacity, such as delivering training programs for judge-faculty, trainings for staff on strategic planning or human resource management, providing technical, material or financial support, it is necessary to identify the real needs of the NSJ as a newly-established institution. Moreover, after several meetings and negotiations with the leadership of the NSJ, it became clear that the management of the NSJ does not know or fully understand what they need. On the one hand, other donor organizations like the Austrian Twinning Project and the European Union and Council of Europe Transparency and Efficiency of the Judicial System of Ukraine project succeeded to assess ongoing training needs for the current Ukrainian judges. On the other hand, the NSJ is still lacking an analysis of the institutional, material, technical and human resource needs required to be an effective and well-organized institution supporting a highly professional judicial cadre in Ukraine. To help clarify this, FAIR has recruited two experts from the United States and France to conduct an assessment of institutional and training needs of the NSJ and to develop recommendations based on the best international and European practice.

PLANS: During the next quarter, FAIR will focus on the assessment of institutional and training needs of the NSJ, including:

- Presentation of the institutional and judicial training needs assessment results of their assessment and their recommendations to the leadership of the NSJ and the HQC (February 2012);
- The first meeting of the newly-established working group consisting of judges, judge-trainers, law professors, and lawyers to further develop the curricula for the judicial candidates' initial training program. (March 2012); and
- Developing an instructional guide for judge-trainers of the NSJ, with information on how to build training courses for judicial candidates using modern adult learning methodology (March 2012).

EXPECTED RESULT 3.2: JUDICIAL OPERATIONS ARE EVALUATED AND FUNDED ACCORDING TO AN OBJECTIVE ASSESSMENT OF NEEDS AND PERFORMANCE

ACCOMPLISHMENTS: During this quarterly reporting period, FAIR continued to build on the efforts and activities of its predecessor UROL in supporting the development of national court performance standards in cooperation with the COJ and SJA. FAIR is continuing to support the Court Performance Evaluation Working Group (CPE Working Group) created under UROL. In addition, FAIR united the CPE Working Group efforts with the efforts of the SJA Working Group on Innovations. The first joint meeting of the CPE Working Group and Subgroup for Developing Court Performance Standards of the SJA Working Group on Innovations took place on December 8, 2011. Seventeen representatives of the COJ, the SJA, the High Administrative Court, courts of general jurisdiction, administrative courts, commercial courts and FAIR took part in this meeting. In addition, international Court Performance Evaluation expert Dr. Pim Albers and Ukrainian Court Performance Evaluation Specialist Dr. Oleksandr Serdyuk joined this meeting. Participants discussed a number of questions and issues related to developing national court performance standards in the nearest future, particularly:

Milestone Progress ER 3.2

- CPE Working Group selects seven court performance standards: quality of court decisions, timeliness of court proceedings, and citizen access to court information, convenience and comfort of court premises, court staff conduct, judicial conduct, administration of court proceedings.
- Review of the budgeting process completed; recommendations are being prepared for submission to the SJA.
- Expert to develop case weighting standards identified.

- The results of the pilot internal court performance evaluation program implemented in 2011 within the framework of UROL;
- The effectiveness of the future usage of two comprehensive but time and resource-consuming court performance standards: quality of court decisions and timeliness of court proceedings;
- Potential additional standards forming the basis for a comprehensive but practical national court performance evaluation system, such as: access to court information, convenience and comfort of court premises, judge and court staff conduct, administration of court proceedings, judges' workload, etc.;
- The best ways for collaboration between the CPE Working Group and the Subgroup for Developing Court Performance Standards of the SJA Working Group on Innovations;
- Application of different court performance measurement methodologies, including internal court performance evaluation, court user surveys by way of Citizen Report Card (CRC) surveys and analysis of statistical data;
- CPE Working Group composition, structure and action plan for the period of December 2011 – May 2012.

Dr. Albers shared recent trends of court performance evaluation in Europe and his idea for further developing national court performance standards for Ukraine. A particular concern of Dr. Albers is that the indicators selected by the CPE Working Group and piloted within the previous project, *quality of court decisions* and *timeliness of court proceedings*, are comprehensive standards in terms of their potential outcomes but time- and resource- consuming in terms of their measurement. According to Dr. Albers, many European countries have difficulties in measuring timeliness of court proceedings, while quality of court decisions is normally gauged by to higher bodies of judicial self-governance and used more for developing judicial training programs than for informing the public.

It is necessary to note, that some leaders of judicial institutions in Ukraine (particularly, the Chair of the SJA) also have some concerns about measuring quality of court decisions as very sensitive area. However, all members of the CPE Working Group are absolutely positive about using quality of court decisions and timeliness of court proceedings as standards in the future court performance evaluation framework. According to them, these two standards were selected for piloting in Ukrainian courts based on the best interests of court users. Representatives of pilot courts, particularly Chief Judge of Chornobayivskyy Raion Court of Cherkasy Oblast Nataliya Okhrimenko, admitted that usage of these two standards for internal court performance evaluation is very important since it immediately gives the chief judge a signal about possible issues and areas for improvement. In addition, representatives of pilot courts indicated that a comprehensive analysis of the quality of court decisions provides courts with valuable information on needed judicial training.

Dr. Serdyuk suggested that a future, national, standard-based court performance evaluation system should unite several measurement methodologies. Certain standards such as the quality of court decisions are best to measure using the court internal evaluation methodology developed and piloted under UROL. A standard such as citizen access to court information is best to measure using of external court performance evaluation, and specifically with of court user surveys through CRC methodology. Thus, the court performance measurement system will be most effective if it consists of a combination of methodologies.

FAIR representatives informed the CPE Working Group that several courts of Kirovograd and Chernivtsi oblasts expressed their wish to participate in the upcoming pilot programs on court performance evaluation. Participants of the meeting also informed that some courts in Odesa Oblast are also interested in participating in this pilot project.

The CPE Working Group and Subgroup for Developing Court Performance Standards of the SJA Working Group on Innovations at their first joint meeting on December 8, 2011 decided upon the following:

- Working Group and Subgroup will continue to work together on developing a national, standard-based court performance measurement system;
- The CPE Working Group will increase its size with representatives of all higher courts based on COJ recommendations; in addition Chief Judge of the Appellate Court of Kirovograd Oblast Yuriy Medvedenko will join the CPE Working Group;
- The court performance measurement system will be based on 7 standards: quality of court decisions, timeliness of court proceedings, citizen' access to court information, convenience and comfort of court premises, court staff conduct, judicial conduct, administration of court proceedings; FAIR Court Performance Evaluation Specialist Oleksandr Serdyuk should finalize the titles of these standards and their definitions;

- The system will elaborate several measurement methodologies including court internal performance measurement, court user surveys, court staff and judges surveys and statistical analysis;
- FAIR CRC surveys (Expected Result 4.3) should contribute to the court performance measurement pilot program. Certain standards should be piloted through CRC surveys, thus, representatives of the CPE Working Group should participate in developing CRC questionnaires for 2012;
- The number of pilot courts for court performance standards should be increased in 2012 to at least 12, including selected courts from Kirovograd, Chernivtsi and Odesa oblasts.

During this quarter, FAIR also started the process of analyzing the current budgetary process of the judiciary and identifying the specific areas where the project could provide assistance to the COJ and FAIR developed a basis for developing court performance standards in collaboration with the COJ and the SJA. CPE Working Group and Subgroup for Developing Court Performance Standards of the SJA Working Group on Innovations agreed to support a standardized court performance measurement system. It is important to note that representatives of the COJ and SJA see that future court performance measurement system should strongly consider citizen's interest as well as expectation of the judicial leadership.

During this quarter, FAIR also started the process of analyzing the current budgetary process of the judiciary and identifying the specific areas where the project could provide assistance to the Council of Judges and State Judicial Administration. In order to complete this task FAIR Judicial Administration Specialist Sergey Suchenko conducted a preliminary study of the budgeting process, and provided the collected information to FAIR short-term Court Budgeting Specialist Markus Zimmer. Mr. Zimmer then traveled to Ukraine from November 27 to December 9, 2011 to conduct his assessment.

Performance Indicators ER 3.2

We do not report any changes indicator status for the Expected Result 3.2 this quarter. According to the Work Plan Performance Monitoring Evaluation Plan (PMEP), we expect to report the data on indicator "Number of courts involved in piloting court performance standards" in April through June 2012 quarter. The data on "Number of court performance standards adopted", "Annual citizen report cards score of participating courts" and "Number of data-fed analytical techniques incorporated into judicial budgeting" are expected in July to September 2012.

In the course of his visit, Mr. Zimmer together with Mr. Suchenko conducted meetings with representatives of all the key stakeholders in the court budgeting process, including COJ Chair Yaroslav Romaniuk, SJA Chair Ruslan Kyrlyuk, SJA officials of central and local levels responsible for formulating the budgets of the courts, as well as chief judges and chiefs of staff at the trial court level. In the course of these meetings, Mr. Zimmer and Mr. Suchenko reviewed the budgeting process of Ukraine's judiciary on a step-by-step and level-by-level basis. As a result of these meetings, Mr. Zimmer prepared a set of recommendations aimed at improving the budgeting process. These recommendations included exploring the possibility to increase the role of judicial self-governance bodies in the process of preparing and defending budget requests, making changes to the process of submitting the budget request of the judiciary in a way to bypass the Ministry of Finance and the Cabinet of Ministers and submit the request directly to Parliament, negotiating a discount on postal services for the judiciary with Ukrposhta (a state enterprise and provider of postal services in Ukraine), providing the public with the possibility to pay court fees directly to the court instead of having to go to a bank, as well as giving the trial courts of general jurisdiction more freedom in administering their own budgets. The recommendations have been presented to the COJ and SJA in the course of a meeting on December 8, 2011. In the course of this meeting Mr. Romaniuk said, "We believe that the publication of such an article in the press will help us convince the stakeholders and the public that changes need to be made in the budgeting process of Ukraine's judiciary. Changes especially in the scope of authority of judicial self-governance bodies are needed. By law we are required to

ensure independence of the judiciary, but we do not think that it is possible when we are practically excluded from the budgeting process.”

The recommendations have been positively received by the COJ and SJA, and Mr. Zimmer was also asked as follow-on to provide a comparison of the budgeting processes for the judiciary in Ukraine and in the U.S. in the form of an article, which the COJ would work on publishing in the local media. Currently the article and the recommendations are being translated into Ukrainian and formatted for submission to the SOJ and SJA in January 2012.

During this quarter, FAIR also actively worked to identify an expert in case weighting, who could support the development of case weighting standards for the judiciary of Ukraine. Both the SJA and COJ believe that these standards will become an extremely valuable resource to substantiate needs-based budget requests for the judiciary, as well as to help balance the judicial workload in the course of assigning cases to judges. FAIR has been able to reach an agreement with Dr. Elizabeth Wiggins from the Administrative Office of the U.S. Federal Courts to work on this assignment. Currently we expect Dr. Wiggins to travel to Ukraine in mid-February 2012.

PROBLEMS: FAIR learned that the budgeting process of Ukraine’s judiciary is extremely complex and inefficient. Our study has revealed that the judiciary currently receives only around 25% of its stated financial needs. Out of those, 80% are used to pay the salaries of judges and court staff, 12% is being used to cover postal expenditures, leaving only around 8% for procurement and capital improvement. Additionally, the current process infringes upon the principle of judicial independence, since the executive branch of power has mechanisms in place to control the allocations to the judiciary, while judicial self-governance bodies have very little role in the process. At the individual court level the situation is also complicated by the inability of the courts to manage their own budgets, even in order to cover urgent needs such as the replacement of a printer cartridge that may take several weeks and has to be purchased through a tender process. Much hope is currently being placed in the new Law on Court Fees, which significantly increased the amount of dues to be paid and placed all the funding collected under the control of the judiciary. It is believed that this would allow the financing of the judiciary in the course of next year at a level of about 36%; however, currently it is not clear whether the court fees are going to generate enough funding.

PLANS: In the next quarter FAIR plans the following activities in order to achieve the Expected Result 3.2:

- In cooperation with SJA and COJ conduct three monthly joint meetings of court performance evaluation working group and sub-group for developing court performance standards within SJA Working Group on Innovations (January to March 2012);
- Through the CPE Working Group and short-term experts, develop a draft court performance measurement framework based on six to ten court performance standards, and application of court external performance evaluation and court internal performance evaluation methodologies for each of them. During the next quarter, the CPE Working Group will review the proposed standards with measurement methodologies and provide recommendations; identify at least 12 courts of different jurisdictions to pilot newly developed court performance evaluation framework (January to February 2012);
- Prepare training program on court performance evaluation for courts and representatives of the territorial SJAs based on the developed court performance standards framework (March 2012);
- In cooperation with the SJA and the short-term expert, review the current process of statistical data collection and data analysis at SJA headquarters and territorial branches.

Identify gaps and needs for improvement. In addition, the CPE Working Group should select pilot courts at the next meeting. It is expected that actual piloting of court performance evaluation standards and methodologies will start in April and May 2012. (January to February 2012);

- Conduct meetings with representatives of the SJA and the COJ to explore the possibility to initiate several pilot programs based on the recommendations prepared by Markus Zimmer (February to March 2012); and
- Develop a methodology for statistical data collection and analysis required to produce a case weighting formula that can aid in substantiating the judiciary's budget requests as well as serve as a tool to balance judicial workloads in assigning cases to judges (March 2012).

EXPECTED RESULT 3.3: THE SJA'S CAPACITY TO REPRESENT AND SUPPORT THE DEVELOPING NEEDS OF UKRAINE'S JUDICIARY IS STRENGTHENED

ACCOMPLISHMENTS: In addition to the conference on strategic planning for the judiciary mentioned above, the FAIR team conducted focus group discussions with judges and court staff in Ivano-Frankivsk on November 23 and Lviv on November 25, 2011. These discussions focused on a SWOT analysis, specifically, the strengths, weaknesses, opportunities and threats related to the judiciary and judicial reform. The results of these focus groups will be used to draft the strategic plan.

Milestone Progress ER 3.3

- Key stakeholders participated in two focus groups and a conference on strategic planning.
- Contents and expert for developing SJA manual on human resources determined.

During this reporting period, FAIR also supported a request by the State Judicial Administration to conduct a seminar on issues related to its role in implementing key aspects of the Law on the Judiciary and Status of Judges. The seminar was held in Ivano-Frankivsk on December 1 and 2, 2011 and included representatives of all of the SJA's territorial departments. The participants discussed improving public access to court information, supporting judicial governance bodies, such as the Council of Judges, and advancing the training of court staff.

In addition, FAIR continued to build on court automation activities with the SJA started under UROL. After Boris Shuster, Director of THETA Ltd., a software company, informed FAIR that they were ready to provide an automated case management system developed with the United Kingdom Department for International Development (DFID) support in Kosovo to the courts of Ukraine free of charge, with only a modest modification fee required to adapt it to Ukrainian procedural requirements, FAIR organized a demonstration of the system at the Presidential Administration on November 17, 2011 for Deputy Head Andriy Portnov, as well for SJA Chair Ruslan Kyrlyuk and Head of the State Enterprise Information Court Systems (ICS) Leonid Bogdanov. After the presentation, Mr. Portnov started asking questions specifically related to the organization of the SMS and distance access processes. He was most interested in how to ensure solid confirmation of the receipt of the message by the party to the case. Mr. Shuster described several options of how this might be done. After that Mr. Portnov said that the case management system itself was more of interest for the SJA and it was up to Mr. Kyrlyuk to decide whether this system could be put to use in the courts of Ukraine. At the same time he expressed interest in organizing a pilot project on the basis of the commercial courts to explore the SMS and distance access possibilities. Mr. Portnov said, "If we see that we need to pass a law or change a regulation in order to make this happen, we can do this quickly and easily, since we have the majority in Parliament. We will also need to identify sources of financing and probably add this to the budget projections for the next year." He added, however, that this will have to be approved at the top level and he will need to have solid justification of why this is necessary.

On December 5, 2011, FAIR conducted a follow-on meeting with Mr. Kyrlyuk and Mr. Bogdanov in order to receive their feedback on the system. In the course of the meeting Mr. Kyrlyuk informed, that currently the State Judicial Administration would like to put on hold the option offered by FAIR, since the SJA is currently moving forward with the development of a system of their own by the ICS, and expects to have it ready by the end of December 2011. However, in case this development effort is not successful, the SJA would be interested in returning to this conversation. At the same time, Mr. Kyrlyuk expressed his profound commitment to cooperating with FAIR in updating the Strategic Plan for automating the courts of Ukraine, which has been developed under the UROL Project, in order to reflect recent legislative changes and ensure successful implementation of the efforts undertaken by the SJA and the ICS.

In order to support the SJA in updating the Strategic Plan, FAIR invited short-term Court Automation Expert Curtis DeClue to work on this task together with Ukrainian short-term Court Automation Specialist Boris Shuster and FAIR Judicial Administration Specialist Sergey Suchenko. On December 14, 2011, FAIR convened a meeting of the Sub-Group for Court Automation of the SJA's Working Group on Innovations.

In the course of the meeting Mr. DeClue presented the draft structure of the Plan, which includes five separate sections, as well as the main criteria for the information to be included into the Plan. Head of the Sub-Group Mr. Bogdanov thanked Mr. DeClue for his fundamental approach to planning the automation of the courts of Ukraine. "This plan has to be public, transparent, understandable and accessible, in other words, it has to be aimed at the establishment of the rule of law in Ukraine", he said. As a result of the meeting the members of the group voted to approve the structure of the Plan proposed by Mr. DeClue. Based on the results of the working group meeting, Mr. DeClue and Mr. Shuster proceeded with drafting the Plan. We expect preparing the first draft of the Plan by the end of January 2012, where it will be provided to the SJA for comments.

PROBLEMS: The current ambitious plans of the SJA and the ICS to bring the automation of Ukrainian courts to a new dimension deserve to be commended. However, given the permanent shortage of funding and the absence of the infrastructure in the courts, we do not believe it to be realistic. The development effort undertaken by the ICS unfortunately replicates the mistakes of the previous ICS management, where judges and court staff are involved in the process in a limited way. Thus, we believe that although well-intended, these efforts are not quite realistic, and it is very likely that we are going to return to discussing the Kosovo system option in the first part of 2012. A very positive change, however, is the readiness of the SJA to move forward with planning its automation efforts, and we hope to achieve progress in this area as part of the general effort to prepare a strategic plan for Ukraine's judiciary. Besides, as mentioned under Expected Result 3.2., one of the major incentives for automating the courts currently comes from the fact that it offers the possibility of electronic notification of parties to cases, which may dramatically reduce postage costs.

PLANS: In the next quarter FAIR plans the following activities in order to achieve the Expected Result 3.3:

Performance Indicators ER 3.3

During this quarter FAIR supported sub-groups for developing strategic plan, for developing unified information policy, for developing court performance standards and court budgeting within the SJA Working Group for Innovations. These organizational structures contribute to FAIR indicator "Number of project-supported organizational structures within the SJA" under the Expected Result 3.3. Through conducting focus groups for strategic planning in two regions and international Strategic Planning Conference FAIR engaged 108 justice sector personnel – judges, court staff and leaders of the national judicial institutions in developing strategic plan contributing to the increase in the indicator "Number of justice sector personnel constructively engaged in long term strategic planning for the judicial branch" under this Expected Result. Other indicator under this Expected Result is "Number of project-supported new or improved policies within the SJA". Related activities contributing to this indicator data change is planned for April-September 2012.

- Conduct three focus groups and “Open Space” on strategic planning;
- Prepare draft strategic plan for the judiciary;
- Prepare first draft of the plan for automation of Ukrainian courts (March 2012); and
- Draft a manual for chief judges and court staff on human resource management (March 2012).

EXPECTED RESULT 4.1: CIVIL SOCIETY AND THE PUBLIC HAVE EFFECTIVE MEANS TO ENGAGE IN DIALOGUE WITH DECISION MAKERS REGARDING JUDICIAL REFORM

ACCOMPLISHMENTS: During this reporting period, FAIR conducted several meetings with civil society organizations (CSOs) who are potential applicants for the request for assistance (RFA) involving one or more grants on the research and recommendations concerning proposed legislation, such as the Law on the Bar and the Law on the High Council of Justice. These meetings were held in different regions, specifically, Ivano-Frankivsk, Lviv and Donetsk, to assess CSO capabilities related to researching and analyzing legislation.

Milestone Progress ER 4.1

- Grant manual prepared and submitted for approval.
- Meetings conducted with potential grantees.

In addition, FAIR participated in a Parliamentary Technical Assistance Organizations Coordination meeting on “Verkhovna Rada Technical Assistance Programs and Agenda Setting for the Future” organized by the USAID Parliamentary Development Project for Ukraine (PDP-II) Legislative Policy Development Program for Ukraine. During this meeting, FAIR established new working contacts with Member of Parliament Yuriy Kliuchkovskiy, Deputy Chairman of the Committee on State Construction and Local Self-Government, Nataliia Kolesnichenko-Bratun, Head of the Secretariat of the Committee on Culture and Morality, and Vira Skalozub, Head of the Secretariat of the Committee on Family, Youth, Sports and Tourism. .

SCHEDULE CHANGES: Subject to approval of the grants manual in January 2011, FAIR plans to issue an RFA involving one or more grants on the research and recommendations concerning proposed legislation in February 2012. FAIR expects that during the next reporting period the grantee will complete and disseminate research as well as conduct public roundtables and hearings on the findings in coordination with working groups under Task 1.1.4.

PROBLEMS: As mentioned above, FAIR conducted a preliminary assessment of CSOs that are potential applicants for the RFA. This assessment showed some weakness in CSO capacity to advocate for proposed legislation. Nevertheless, several CSOs could develop their capacity to advocate for and monitor pending legislation. FAIR will continue to work on building this capacity within civil society. .

Performance Indicators ER 4.1

According to the Work Plan and Performance Monitoring and Evaluation Plan (PMEP) we measure progress under the Expected Result 4.1 with the indicator “Number of project-supported public events organized by Civil Society Organizations on judicial reform”. We do not report progress on this indicator this quarter since FAIR has not yet identified CSO partners for this activity. We expect changes in this indicator data in April-September 2012.

PLANS: During the next quarter, FAIR will announce a grant competition on research and recommendations concerning proposed legislation, such as the Law on the Bar and the Law on the High Council of Justice, the project’s major activities will include the following:

- Support CSOs in developing report on recommendations for proposed legislation (February 2012 and ongoing); and

- Assist CSOs in preparing publications in media emphasizing the necessity of Judicial Reform protraction in accordance with proposed recommendations (February 2012 and ongoing).

EXPECTED RESULT 4.2: THE UKRAINIAN PUBLIC IS ENGAGED IN THE JUDICIAL REFORM PROCESS THROUGH CIVIC EDUCATION AND ADVOCACY ACTIVITIES

ACCOMPLISHMENTS: During the reporting period FAIR conducted several meetings with potential CSOs applicants for the RFA on the development of public awareness materials and activities concerning the Law on the Judiciary and Status of Judges, Constitutional Assembly activity. These meetings were conducted in different regions to identify potential applicants.

From December 8 to 10, 2011, FAIR participated in “Law Week” together with the USAID LEP and the USAID BUILD, providing public awareness kits.

During Law Week, FAIR established new working contacts with the Ministry of Justice of Ukraine and agreed on further cooperation in the field of legal education and legal aid.

“Reducing the deficit of justice in society is the goal of improving access to justice,” said Roman Stefanchuk, Head of the Department of Development of National Legislation of the Institute of Legislation of the Verkhovna Rada, at the opening of Law Week. .

During this reporting period, FAIR also supported LEP’s quarterly meeting in Donetsk, providing a presentation on the Citizen Report Card (CRC) methodology. This presentation can be found at <http://pravovakrayina.org.ua/2011/12/%D1%83-%D0%B4%D0%BE%D0%BD%D0%B5%D1%86%D1%8C%D0%BA%D1%83-%D0%BE%D0%B1%D0%B3%D0%BE%D0%B2%D0%BE%D1%80%D0%B8%D0%BB%D0%B8-%D0%BC%D0%BE%D0%B6%D0%BB%D0%B8%D0%B2%D0%BE%D1%81%D1%82%D1%96-%D0%BF%D1%96%D0%B4/#more-1649>. FAIR also successfully prepared a site visit to the Donetsk Oblast Court of Appeals and a meeting with Chief Judge Valentyna Lisova for meeting participants.

In addition, the FAIR team further supported the development and implementation of communications strategies for the judiciary. In November 2011, the FAIR team successfully launched the call center at Ivano-Frankivsk Oblast Court of Appeals. The launch of the call center was part of Ivano-Frankivsk Oblast Court of Appeals communications strategy developed earlier with UROL support. News coverage of the launch can be found at http://www.ex.ua/view_storage/144470366604. FAIR is also working with the SJA’s Working Group on Innovations to develop communications policies for the judiciary as a whole.

During this reporting period, FAIR also updated and prepared 2,000 copies of the video “Getting Acquainted with the Court” to reflect new provisions of the Law on the Judiciary and Status of Judges, which became part of the FAIR public awareness kits distributed later during the Law Week event;

Milestone Progress ER 4.2

- Development of two new civic education materials initiated.

Performance Indicators ER 4.2

According to the Work Plan and Performance Monitoring and Evaluation Plan (PMEP) we measure progress under the Expected Result 4.2 with the indicators “Number of media outlets used by project-supported CSOs to disseminate judiciary related information” and “Number of courts offering CSO-produced legal education materials to court visitors”. Considering that FAIR has not yet identified CSO partners for the activities under this Expected Result, there are no changes in these indicators data this quarter. We expect that project activities contributing to these indicators will take place in April-September 2012.

In November and December 2011, FAIR produced 2,000 copies of public awareness kits, which included **7 brochures**, specifically, “European Court of Human Rights,” “Guide to civil process,” “Guide to criminal process,” “Guide to administrative process,” “How to find a competent court,” “If you plan to bring a claim to court what should you know,” “How to get acquainted with a court decision,” and **20 leaflets**, specifically, “Whether it is possible to resolve dispute without a court,” “Why it is important to have lawyer during dispute,” “How and where to get legal assistance,” “How to behave in a court,” “How to file a complaint against a judge,” “How to apply to a court in civil case,” “Court fees in a civil case,” “How to appeal a court decision in a civil case,” “Enforcement of court decisions in civil cases,” “What is a court order,” “How to apply to a court in an administrative case,” “Court fees in an administrative case,” “How to appeal a court decision in an administrative case,” “Enforcement of a court decision in administrative cases,” “What does it mean – to apply to the European Court of Human Rights,” “What a victim should know,” “If you are detained: what to do,” “Rights of suspected and accused persons,” “Appealing decisions of prosecutors’ office, police and other law enforcement authorities,” “Legal system of Ukraine,” and a **poster** “Who’s Who in the Courtroom.” The kit also includes a **video**, “Getting Acquainted with the Courts.”



SCHEDULES: Once the grants manual is approved, FAIR plans to issue the RFA on the development of public awareness materials and activities concerning the Law on the Judiciary and Status of Judges in February 2012.

PROBLEMS: The composition and the membership of the Working Group on Innovations and its subgroup on the development of a unified communications policy cause some concern. To date, the working group includes no professionals able to develop or draft of unified communications policy for the judiciary. During the next quarterly reporting period, FAIR will work with the SJA to expand the membership of the working group to include court staff and judges who have experience advancing court communications.

PLANS: During the next quarter, FAIR will announce a grant competition on the development of public awareness materials and will conduct a roundtable on model communications strategy. This will include the following:

- Support CSOs in developing public awareness materials and activities concerning the Law on the Judiciary and Status of Judges, Constitutional Assembly activity and other, new judicial reforms (February 2012 and ongoing);
- Assist selected CSOs in conducting public awareness seminars and webinars, prepare publications in media on rights, responsibilities, and benefits of judicial reform (February 2012 and ongoing);
- Conduct a roundtable in Ivano-Frankivsk on the importance of developing and implementing communications strategies in courts (January 2012); and
- Support the activities of the subgroup on the development of unified communications policy of the Working Group on Innovations of SJA (January 2012 and ongoing).

EXPECTED RESULT 4.3: CIVIL SOCIETY ORGANIZATIONS HAVE MEANS AND OPPORTUNITIES TO EFFECTIVELY MONITOR THE IMPLEMENTATION OF JUDICIAL SECTOR REFORMS AND PROVIDE OVERSIGHT TO JUDICIAL OPERATIONS

ACCOMPLISHMENTS: During this quarterly reporting period, the FAIR team designed the following grant programs aimed at engaging CSOs in monitoring the implementation of the judicial sector reform and overseeing the judicial operations.

Citizen Report Cards (CRC) Grant Program. FAIR continues to support citizen report cards (CRC) activities that started under the UROL project. The purpose of CRC grant program is to conduct a survey aimed at measuring citizen satisfaction of court performance using the citizen report cards methodology, promoting court performance evaluation standards and helping courts to improve court services and public trust. Surveys will be implemented by selected CSOs in former UROL-supported and new pilot courts.

Milestone Progress ER 4.3

- Courts to expand CRCs to at least two new regions identified.

In order to expand the CRC grant program to new regions, FAIR identified 11 new pilot courts in Chernivtsi and Kirovograd oblasts with support from the respective chief judges of the courts of appeal for these regions. The new pilot courts are the following:

1. Kirovograd Oblast Court of Appeals
2. Leninisky District Court of Kirovograd City
3. Kirovsky District Court of Kirovograd City
4. Kirovogradsky Raion Court of Kirovograd Oblast
5. Oleksandriysky City-Raion Court of Kirovograd Oblast
6. Chernivtsi Oblast Court of Appeals
7. Pershotravnevy District Court of Chernivtsi City
8. Shevchenkiivsky District Court of Chernivtsi City
9. Glybotsky District Court of Chernivtsi Oblast
10. Vyzhnytsky District court of Chernivtsi Oblast
11. Sokyryansky District court of Chernivtsi Oblast.

It is important to highlight the fact that Chief Judge Yuriy Medvedenko of the Kirovograd Oblast Court of Appeals and Chief Judge Oleksiy Chernovsky of the Chernivtsi Oblast Court of Appeals took the initiative themselves to participate in the CRC program.

As part of the CRC program, FAIR engaged short-term expert Maryna Ogay who will provide civil society and sociological expertise to the courts and civil society organizations that will implement CRCs. Ms. Ogay will support the implementation of the CRC grant program by conducting trainings programs, providing technical assistance and expertise to partner CSOs, preparing summary report and presentation of results, and disseminating the surveys results.

FAIR will use the CRC methodology as a tool to measure court performance and present the strengths and weaknesses for each participating court. Thus, CRC surveys give the opportunity to civil society organization to participate in improving court performance. Moreover, citizen feedback through the CRC program will form the basis for the creation of court performance standards in Ukraine. This activity complements internal court performance evaluation under Task 3.2.1.

Grant Program on Monitoring the Judicial Candidates Test. Under this activity, CSOs will act as observers at four test locations during the 2012 judicial candidates' anonymous tests, produce recommendations to the HQC for making improvements and raise public and media awareness about judicial candidates testing. FAIR selected short-term Judicial Selection Expert Leonid Sereda to train CSOs representatives in test administration and observation within grant program on monitoring the judicial candidates test.

The Grant Program on Monitoring the Judicial Candidates Test will provide civil society with opportunity to monitor implementation of new judicial selection processes. CSOs will contribute to improving the judicial test and support increased public trust in judiciary by promoting greater transparency in the media on the test.

Performance Indicators ER 4.3

We measure progress under the Expected Result 4.3 with the indicators "Number and percentage of courts in which there are active CSO court performance evaluation programs" and "Percentage of partner Civil Society Organizations' performance improvement recommendations implemented by judicial institutions". We expect that project activities contributing to these indicators will take place in April-September 2012.

SCHEDULE CHANGES: The project initially planned to issue the announcements for the mentioned above grant programs in November 2011. However we postponed grant activities until January or February 2012, as the project is still awaiting approval of the grants manual.

PLANS: During the next quarterly reporting period FAIR will announce two grant competitions on CRC survey and monitoring the judicial candidates test, the project's major activities will include the following:

- Issue RFAs on the following grant programs: Citizen Report Cards (CRC) Survey and Monitoring the Judicial Candidates Test (January to February 2012);
- Conduct start-up trainings for CSO implementers of both grant programs (February to March 2012); and
- Provide CRC methodology training for the selected CSOs and court staff within Citizen Report Cards (CRC) Grant Program (February to March 2012).

DONOR COORDINATION

During this reporting period, the FAIR team hosted two Rule of Law Donors and Implementers meetings. On October 5, 2011, featured speaker Maryna Stavniychuk, Presidential Adviser, Head of the Presidential Administration's Main Office for Constitutional and Legal Affairs, a member of Council of Europe's Venice Commission, shared her views on the current status of judicial reform in light of Venice Commission opinions and discussed efforts to reform the Constitution of Ukraine in line with international and European standards. On November 2, 2011, the featured speaker was International Renaissance Foundation Rule of Law Program Director Roman Romanov, provided the summary of the recent Council of Europe's Venice Commission opinions regarding the draft Law on the Bar and draft Law on the Freedom of Assembly to what extent they are in line with international and European standards.

On December 15, 2011, Evaluation and Court Performance Specialist Tomas Verteletskyy represented the FAIR project on Civil Society and Media Sector Donor Coordination Meeting hosted by Internews Network. During the meeting the following issues were covered:

- Law on Access to Public Information: assessment of the various coalitions
- Plans for the year ahead: civil society and media sector donors
- Plans for parliamentary elections program support.

Also during this reporting period, COP Vaughn and Mr. Verteletsky supported the USAID UNITER Project by participating on its selection committee for NGO capacity building grant competition in October 2011. Further, the FAIR team attended Parliamentary Technical Assistance Organization Coordination Meetings in October, November and December 2011 and provided nominations for the Library of Congress Open World Program in November 2011.

DELIVERABLES

FAIR submitted the following deliverables this reporting period:

- Mobilization Plan
- Work Plan for October 1, 2011 to March 31, 2012
- Performance Monitoring and Evaluation Plan for October 1, 2011 to September 30, 2013
- Branding Implementation Plan and Marking Plan
- Grant Manual
- Report on Supporting the Legal Framework to Enhance the Quality of Legal Education in Ukraine. Challenges and Opportunities
- Report on Supporting the Legal Framework to Enhance Bar reform in Ukraine. Challenges and Opportunities
- List of the recommendations on the draft papers on the operations of the Scientific Expert Group
- List of the recommendations on the Concept Paper on formation of the Constitutional Assembly
- Report on Court Budgetary Process in Ukraine with Recommendations
- Comparative Study on U.S. and Ukraine Court Budgetary Processes

LOE UTILIZATION

LOE utilized to-date	759.38
October-December 2011 LOE	759.38
TOTAL LOE utilized	759.38

ANNEX A: PERFORMANCE MANAGEMENT AND EVALUATION SUMMARY

PERFORMANCE INDICATORS	BASELINE DATA		TARGETS		ACTUAL			Notes and Explanations
	Month/ Year	Value	Annual 2012	Cumulative Project End Base Period	This quarter	Annual 2012	Cumulative to date	
Program Goal: Support legislative, regulatory and institutional reform of judicial institutions in order to build a foundation for a more accountable and independent judiciary								
1. Number of legal institutions and associations supported by USG	Oct'11	30	24	30	10	10	10	This reporting period FAIR counts 8 governmental judicial institutions and 1 non-governmental legal association.
Objective 1: The legislative and regulatory framework for judicial reform complies with European and international norms and supports judicial accountability and independence								
2. Number of laws, regulations and procedures designed to enhance judicial independence supported with USG assistance	Oct'11	8	2	12	0	0	0	During this reporting period FAIR provided support to the Draft Amendments to the Law on the Judiciary and the Status of Judges.
Expected Result 1.1: Ukrainian judicial reform legislation receives favorable comments from the Venice Commission as meeting international standards and reflects domestic and international expert input								
3. Number of revised provisions enacted that reflect Venice Commission recommendations	Oct'11	0	22	22	0	0	0	Draft Amendments to the Law on the Judiciary and the Status of Judges supported by FAIR address at least 80% of Venice Commission recommendations. However, actual adoption of Draft Amendments depends of legislator's political will and outside of FAIR area of influence.
4. Percentage of Venice Commission recommendations adopted	Oct'11	0	80%	80%	0	0	0	
Expected Result 1.2: Constitutional reform related to the judiciary is pursued in an inclusive manner								

PERFORMANCE INDICATORS	BASELINE DATA		TARGETS		ACTUAL			Notes and Explanations
	Month/ Year	Value	Annual 2012	Cumulative Project End Base Period	This quarter	Annual 2012	Cumulative to date	
5. Number of project-supported communication products issued by civil society organizations on constitutional reform	Oct'11	0	2	4	0	0	0	Not applicable to this reporting period. Related activities are scheduled for April – September 2012.
6. Number of working sessions on Constitutional reform between law makers and civil society organizations	Oct'11	0	2	4	0	0	0	Not applicable to this reporting period. Related activities are scheduled for April – September 2012.
7. Number of civil society organizations who have experience in constitutional reform participating in public events on the Constitution	Oct'11	0	15	30	0	0	0	Not applicable to this reporting period. Related activities are planned for April – September 2012.
Objective 2: The accountability and transparency of key judicial institutions and operations are strengthened								
8. Number of new properties and functions surrounding judicial selection and discipline introduced to HQC website with project support	Oct'11	0	10	15				Not applicable to this reporting period. Related activities are planned for April – September 2012.
Expected Result 2.1: Ukrainian judges are appointed based on objective, knowledge- and performance-based criteria								
9. Number of merit-based criteria or procedures for justice sector personnel selection adopted with USG assistance	Oct'11	2	10	20	0	0	0	Not applicable to this reporting period. Related activities are planned for April – September 2012.
10. Number of procedures within the judicial appointment process improved with project support	Oct'11	0	4	9	0	0	0	Not applicable to this reporting period. Related activities are planned for April – September 2012.
11. Number of judicial test developers trained with project support	Oct'11	0	To be set by March 2012	To be set by March 2012	0	0	0	Not applicable to this reporting period. Related activities are planned for April – September 2012.
Expected Result 2.2: Ukrainian judges are disciplined in transparent processes								

PERFORMANCE INDICATORS	BASELINE DATA		TARGETS		ACTUAL			Notes and Explanations
	Month/ Year	Value	Annual 2012	Cumulative Project End Base Period	This quarter	Annual 2012	Cumulative to date	
12. Number of criteria, standards and regulations adopted to govern judicial misconduct investigations	Oct'11	0	4	8	0	0	0	Not applicable to this reporting period. Related activities are planned for April – September 2012.
13. Per cent of judicial misconduct complaints submitted to the HQC using the standardized form	Oct'11	2%	3%	10%	2%	2%	2%	No change since the baseline.
14. Number of government institutions placing judicial misconduct complaint form on their website.	Oct'11	1	1	1	1	1	1	HQC remains the government institution placing judicial misconduct complaint form on its website.
15. Per cent of judicial discipline decisions posted on HQC website	Nov'11	47%	80%	100%	73%	73%	73%	During 2011, HQC made 159 judicial discipline decisions, 116 of them are published on HQC website.
16. Number of judicial disciplinary inspectors trained with project support	Nov'11	0	30	30	0	0	0	Not applicable to this reporting period. Related activities are planned for April – September 2012.
Expected Result 2.3: The regulatory and institutional framework for judicial accountability and integrity are strengthened								
17. Number of judicial self-governance mechanisms revised with project support	Oct'11	0	1	3	0	0	0	Not applicable to this reporting period. Related activities are planned for April – September 2012.
18. Number of judges providing feedback to revisions of judicial self-governance mechanisms	Oct'11	0	100	200	0	0	0	Not applicable to this reporting period. Related activities are planned for April – September 2012.
Objective 3: The professionalism and effectiveness of the Ukrainian judiciary are strengthened								

PERFORMANCE INDICATORS	BASELINE DATA		TARGETS		ACTUAL			Notes and Explanations
	Month/ Year	Value	Annual 2012	Cumulative Project End Base Period	This quarter	Annual 2012	Cumulative to date	
19. Number of USG-assisted courts with improved case management	Oct'11	14	20	30	0	0	0	Not applicable to this reporting period. Related activities are planned for April – September 2012.
20. Number of judges and judicial personnel trained with USG assistance	Oct'11	2,946	300	3,500	0	0	0	Not applicable to this reporting period. Related activities are planned for April – September 2012.
Expected Result 3.1: The skills and competencies of Ukrainian judges are bolstered through modern, demand-driven initial and ongoing training programs								
21. Number of new legal courses or curricula developed with USG assistance	Oct'11	8	3	14	0	0	0	Not applicable to this reporting period. Related activities are planned for April – September 2012.
22. Number of TOT trainers created	Oct'11	187	30	50	0	0	0	Not applicable to this reporting period. Related activities are planned for April – September 2012.
23. Number of judges trained with USG assistance	Oct'11	1,700	200	2,200	0	0	0	Not applicable to this reporting period. Related activities are planned for April – September 2012.
Expected Result 3.2: Judicial operations are evaluated and funded according to an objective assessment of needs and performance								
24. Number of court performance standards adopted	Oct'11	0	0	5	0	0	0	Not applicable to this reporting period. Related activity is planned for July – September 2012.
25. Number of courts involved in piloting court performance standards	Oct'11	6	12	12	0	0	0	Not applicable to this reporting period. Related activity is planned for May – September 2012.

PERFORMANCE INDICATORS	BASELINE DATA		TARGETS		ACTUAL			Notes and Explanations
	Month/ Year	Value	Annual 2012	Cumulative Project End Base Period	This quarter	Annual 2012	Cumulative to date	
26. Annual citizen report cards score of participating courts	Oct'11	.77 (out of max score of 1)	.82	.87	n/a	n/a	n/a	Not applicable to this reporting period. Related activity is planned for May – September 2012.
27. Number of data-fed analytical techniques incorporated into judicial budgeting	Oct'11	0	3	3	0	0	0	Not applicable to this reporting period. Related activity is planned for May – September 2012.
Expected Result 3.3: The SJA's capacity to represent and support the developing needs of Ukrainian judiciary is strengthened								
28. Number of project-supported organizational structures within the SJA for the support of information technology, procurement, capital improvement, human resources, statistical collections and analysis activities within the courts	Oct'11	1	7	7	4	4	4	During this reporting period FAIR supported sub-groups for developing strategic plan, sub-group for developing unified information policy, sub-group for developing court performance standard and sub-group for court budgeting of the SJA Working Group on Innovations.
29. Number of project-supported new or improved policies within the SJA for the support of information technology, procurement, capital improvement, human resources, statistical collections and analysis activities within the courts.	Oct'11	0	4	7	0	0	0	Not applicable to this reporting period. Related activity is planned for April – September 2012.
30. Number of justice sector personnel constructively engaged in long term strategic planning for the judicial branch	Oct'11	0	200	200	108	108	108	During this reporting period FAIR engaged 108 justice sector personnel in strategic planning for the judicial branch through focus groups in two regions and Strategic Planning Conference

PERFORMANCE INDICATORS	BASELINE DATA		TARGETS		ACTUAL			Notes and Explanations
	Month/ Year	Value	Annual 2012	Cumulative Project End Base Period	This quarter	Annual 2012	Cumulative to date	
Objective 4: The role of civil society organizations as advocates for and monitors of judicial reform is strengthened								
Expected Result 4.1: Civil society and the public have effective means to engage in dialogue with decision makers regarding judicial reform								
31. Number of project-supported public events organized by Civil Society Organizations on judicial reform	Oct'11	0	10	20	0	0	0	Not applicable to this reporting period. Related activity is planned for April – September 2012.
Expected Result 4.2: The Ukrainian public are engaged in the judicial reform process through civic education and advocacy activities								
32. Number of media outlets used by project-supported CSOs to disseminate judiciary related information	Oct'11	0	50	100	0	0	0	Not applicable to this reporting period. Related activity is planned for April – September 2012.
33. Number of courts offering CSO-produced legal education materials to court visitors	Oct'11	0	20	30	0	0	0	Not applicable to this reporting period. Related activity is planned for April – September 2012.
Expected Result 4.3: Civil society organizations have means and opportunities to effectively monitor the implementation of judicial sector reforms and provide oversight to judicial operations								
34. Number and percentage of courts in which there are active CSO court performance evaluation programs	Oct'11	20 (2,6%)	20 (2,6%)	30 (3,9%)	n/a	n/a	n/a	Not applicable to this reporting period. Related activity is planned for April – September 2012.
35. Percentage of partner Civil Society Organizations' performance improvement recommendations implemented by judicial institutions	Oct'11	30%	40%	50%	n/a	n/a	n/a	Not applicable to this reporting period. Related activity is planned for April – September 2012.